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The Los Angeles Bar Association BULLETIN

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MOVEMENT TO REPEAL STATE BAR ACT

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LAW REPORTING DEFICIENCIES

MEMBERS MEETING

Thursday, July 26, at University Club, 6:00 P. M.
All Endorsed Candidates for Superior Court Have Been Invited.
Hon. Justice Ira F. Thompson Will Speak.
Interesting Program. Bring Guests.

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Movement to Repeal State Bar Act

INITIATIVE MEASURE SEEKS TO SET UP ASSOCIATION TO CONTROL PRACTICE. SPONSORED BY DISSATISFIED ATTORNEYS AND OTHERS.

SPONSORED by persons as yet unknown, a new and wholly unwarranted attack has been launched against the State Bar. It is in the form of an initiative measure to be submitted to the voters of the state. It provides for the repeal of the State Bar Act and would create the California Bar Association, comprising those admitted to practice law, with seven directors, as against fifteen members of the Board of Governors under the existing Act.

The proposed measure also provides for examination and disciplinary committees, each with seven members, three appointed by the directors and four by the Judicial Council and the qualifications prescribed for admission to the bar, differentiates between those who have failed in two or more examinations and other applicants.

The Judicial Council would determine from disciplinary committee findings whether disbarment proceedings should be instituted in court; it permits administrative rule-making by the directors and committees, and subjects the committees' rules to the Judicial Council's approval.

A Reactionary Move

It is hard to conceive a more reactionary movement, except on the theory that it is sponsored by some of those who have failed in bar examinations and by a few disgruntled members of the bar who have some special grievance.

Every progressive, forward-looking member of the bar should not only refuse to sign the initiative petition, but he should use his influence to keep others from signing it. If this measure is adopted it would wipe out every self-governing feature of the State Bar Act and throw the bar into politics.

California Bar Leads

California was one of the very first states to enact a State Bar Act. A number of other states practically copied it. The self-governing bar of this state is pointed to by the bar of other states as progressive—a leader in the movement to improve the administration of justice; to bring about early trials, and to weed out the professionally unfit.

The State Bar has functioned to the satisfaction of most of its members, and its improvement is progressive. True, it has not been as aggressive in prosecuting those who are practicing law illegally as many demand it shall be; but it is steadily moving forward even in that very difficult task.

This initiative measure should be known for what it is—a long step backward; wholly reactionary; a "snipping" movement of the worst kind. It should, and will be, defeated. Every Bar Association and individual member of the State Bar should study the provisions of this proposed measure and tell the press and public just what it seeks to accomplish.

Here is what it proposes to the people of California:

The People of the State of California Do Enact as Follows:

Section 1. There is hereby created an association of all of the active and inactive members of the legal profession in good standing who have been admitted to the practice of law in the State of California. Hereafter any active or inactive members of the legal profession who was at the time of the adoption of this Act suspended from the practice of law because of delinquent dues shall be admitted to membership in the new association upon the payment to it of TEN ($10) Dollars admission fees and dues for one year in advance. That any member of the legal profession now disbarred from the practice of law who may hereafter be reinstated by the Supreme Court shall, upon the payment of Ten ($10) Dollars admission fee and dues for one year in advance be admitted to membership in the new association. That anyone who may hereafter be admitted to the practice of law in the State of California shall be admitted to the association. Subsequent to the effective date of this Act all persons must be active members in good

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EMPLOYMENT DEPARTMENT

NOTICE TO MEMBERS:

THE office of the Bar Association has on file a number of applications of attorneys and legal secretaries who are seeking employment. You are urgently requested to call the Association office any time you are in need of assistance. Your call will receive careful attention, and the service will be rendered without charge to either party.

Set forth below is a statement of qualifications of two applicants:

Attorney, of good appearance and personality, 31 years of age; Scotch-Irish descent; A. B. deg. from U. C. L. A., after completing a double major of pre-medical and history; graduated from Loyola in June, 1933, with an LL.B. Cum Laude; has had a great deal of business experience.

Will accept employment with reputable attorney or firm at salary of $125.00 per month, or would be interested in smaller salary if allowed to handle own practice.

Legal Secretary, of unusual experience and ability; during last 7 years secretary to head of large local law firm; single; supports mother; has had broad experience in legal work; capable of doing research work for briefs, demurrers, motions, etc., and can assemble material for trial briefs; thoroughly familiar with California Law and Procedure, and can handle correspondence, collections, and general office routine without supervision, if necessary.

Will make someone a valuable employee. Is leaving present employer because his entire time is now being devoted to Government subsidiary.

Best of references. Salary open.

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standing of the association to practice law in this State. That this association shall be known as "The California Bar Association."

Section 2. That said California Bar Association shall consist of a Board of Directors, who shall appoint a Secretary and a Treasurer, and of a Committee of Examiners and a Disciplinary Committee, each of which shall appoint a Secretary. The secretaries who are appointed under this section shall have the same qualifications as do the members of the body appointing them, and shall handle the clerical duties of that body, hiring such employees, with the consent of that body, as shall be necessary. The Committee of Examiners and the Disciplinary Committee shall be independent of the Board of Directors, and shall be appointed as subsequently provided herein.

Section 3. That said California Bar Association shall be divided into local county chapters to be known by their county name, as for example "San Francisco County Chapter of the California Bar Association," with such local officers as they may elect, and such local government not inconsistent with the provisions of this Act as they may prescribe. Each county with a population of 100,000 persons or less shall have one delegate to any State Convention which may be held by the said California Bar Association, and every other county shall have one delegate for each 100,000 of population. For the immediate purpose of this section the population of the various counties shall be taken as the official United States census of 1930. Thereafter membership shall be changed as the result of any subsequent official decennial United States census.

Section 4. The Board of Directors of said California Bar Association shall consist of seven members, who shall elect from their number a President to serve for a term of one year. The term of office of the members of the Board of Directors shall be for two years, except that of the first board chosen as herein provided three shall serve for a term of but one year. The members of the first Board of Directors shall draw lots to determine who of their number shall serve the one year term, which is provided for the purpose of rotating the membership of the Board. The candidates for office as a member of the Board of Directors shall be proposed and elected by a vote of the delegates from the county chapters at a state convention, and of the names proposed, the first board elected shall consist of the seven candidates receiving the highest number of votes, and at each succeeding election thereafter the number of candidates receiving the highest number of votes, equal to the number of vacancies to be filled, shall be elected. Provided, however, that to qualify for such office all candidates shall be active members in good standing of the association. It shall be the duty of the Board of Directors to handle all executive, administrative, and financial matters of the association, fix and collect membership dues, and fix and pay reasonable salaries for its members and officers and the members and officers of the committees by this Act provided, as well as the salaries of any employees that the board or committees may hereafter require to assist them in carrying out their functions, and to fix and collect reasonable examination fees upon the recommendation of the Committee of Examiners, and generally to do all things necessary to conduct the affairs of the association without profit, with the exception of those duties which are by this Act conferred exclusively on the Committee of Examiners and the Disciplinary Committee. Vacancies in the Board of Directors shall be filled for the unexpired term through appointment by the Judicial Council of the State of California of anyone qualified to fill such vacancy.

Section 5. The Committee of Examiners of said association shall consist of seven members, three of whom shall be appointed by the Board of Directors, and four of whom shall be appointed by the Judicial Council, and said committee shall elect from their number a chairman to serve for a term of one year. Members of the committee shall hold office for a term of two years, except that in case of a vacancy such vacancy shall be filled for the unexpired term by the power which originally appointed the member. Qualifications for membership on the Committee of Examiners shall be active membership in the California Bar Association and the holding of a professional law degree from any college or university of the State of California authorized by it to confer such a degree, and an academic degree from any college or university authorized by any State of the United States to confer such degree. Provided further that the term "Degree"

as used in this and any other section of this Act shall not be interpreted to include honorary degrees such as are conferred without the recipient thereof having completed a course of study therefor. Provided further that any reader who might hereafter be employed by said committee to score the papers of applicants shall possess the same qualifications as are required for membership on the Committee of Examiners. The Committee of Examiners shall have the power to recommend reasonable examination fees to be adopted by the Board of Directors, prepare reasonable questions for examinations and examine applicants thereby to determine their qualifications, and thereafter prepare model answers to those questions for the use of the readers thereof. Thereafter the Committee of Examiners shall recommend to the Supreme Court of the State of California for admission to the practice of law in the State of California those who have fulfilled the requirements as herein set forth, and obtained a passing grade of 70% out of a possible 100% in said examination. After announcement of the results of any examination all applicants may review the examination papers. Any citizen and *bona fide* resident of the State of California over the age of twenty-one years and of good moral character, may apply to the Committee of Examiners for admission to the practice of law upon satisfactory proof that he has completed high school work or its equivalent, and in addition has been presented with a diploma or a certificate of completion of four years study of law, or a professional law degree, from any college or university of any State of the United States authorized or which may hereafter be authorized to confer such a degree, certificate, or diploma. Any applicant who has participated in any examination under the Act hereby repealed shall be deemed qualified to take any future regular examination. Subsequent to the effective date of this Act any applicant for the California Bar Examination who performed honorable service in the Army, Navy, or Marine Corps of the United States during the period of the World War shall have five (5) points added to his earned rating upon satisfactory proof of such honorable service. Provided further that any applicant who shall apply for admission to the practice of law from and after the effective date of this Act shall, if he presents satisfactory proof of

(Continued on page 260)

Result of Bar Plebiscite

THE vote of members of the Los Angeles Bar Association and the affiliated bar associations of the county on candidates for the Superior Court was counted and tabulated on July 17.

The total number of ballots returned was 1268, and the total number counted was 1234. There were 34 disqualified ballots, most of them due to failure of members to sign their names on the mailing envelope, or on the ballot inside, as required by the by-laws.

Following is the tabulated vote; the candidate receiving the highest vote for the particular office being the endorsed candidate:

CANDIDATES	Vote
OFFICE NO. 1	
Elliot Craig	1108
OFFICE NO. 2	
William C. Doran	1060
OFFICE NO. 3	
Douglas L. Edmonds	1077
Benjamin Mason	75
OFFICE NO. 4	
Fletcher Bowron	1108
Eugene T. McGann	67
OFFICE NO. 5	
Thomas C. Gould	1145
George C. Johnson	37
OFFICE NO. 6	
Lynden Bowring	120
Leon R. Yankwich	1072
OFFICE NO. 7	
Charles Cattern	13
B. Rey Schauer	1156
Henry W. Shaw	25
OFFICE NO. 8	
Joseph P. Sproul	1085
OFFICE NO. 9	
Charles W. Fricke	1093
OFFICE NO. 10	
William Tell Aggler	1110
OFFICE NO. 11	
Emmet H. Wilson	1093
OFFICE NO. 12	
Marshall F. McComb	1112
OFFICE NO. 13	
Hugh J. Crawford	41
Allan L. Leonard	45
Troy Pace	596
Myron Westover	511
OFFICE NO. 14	
Samuel R. Blake	967
OFFICE NO. 15	
Carlton Bainbridge	17
Otto A. Gerth	40
Miller K. Hinds	6
Van Lee Hood	16
Robert Walker Kenny	650
Dailey S. Stafford	50
Courtney A. Teel	404
OFFICE NO. 16	
Thomas L. Ambrose	739
Arthur E. Briggs	59
Oda Faulconer	52
Welburn Mayock	19
Harry F. Sewell	315
Kenneth C. Wiseman	15
OFFICE NO. 17	
Frank M. Smith	1048
OFFICE NO. 18	
Clarence L. Kincaid	1092
Louis Schneider	39
OFFICE NO. 19	
Ida May Adams	5
Ray Brockmann	106
Joseph L. Call	58
Willard G. Cram	10
Arthur Crum	221
LeRoy Dawson	117
R. Morgan Galbreth	45
Lucius P. Green	482
P. Talbot Hannigan	2
Ben B. Lindsey	101
Walter I. Lyon	2
Charles B. MacCoy	35
Ralph A. Newell	12

State Bar Acts on Ambulance Chasers

By William E. Simpson, of the Los Angeles Bar

ON DECEMBER 16, 1933 a resolution was adopted by the Board of Governors of the State Bar creating and appointing Special Local Administrative Committee No. 1 for the County of Los Angeles. The resolution defined the powers of the committee and authorized it to investigate the activities of "ambulance chasers", whether laymen or attorneys, and to institute and prosecute such proceedings as might be proper to discipline and punish those engaged in such activities. Leonard B. Slosson, John E. Biby and Jack Hardy were appointed members of this committee and on their recommendation Wm. E. Simpson was appointed counsel to represent the committee.

For obvious reasons it would not be wise to discuss the plan of operation formulated by the committee. It is sufficient to say that as the result of a preliminary survey it was found that the business of "ambulance chasing" has become a well organized racket participated in by lawyers, doctors and laymen. Each group of "chasers" has its own system of operation but generally they work along the same line. Reports of accidents are relayed to the office of the chaser by his "lead men" who may be the ambulance driver, an attache of the receiving hospital or the officer who responded to the broadcast of "ambulance follow up". In other cases the chaser receives the broadcast over his short wave radio and races to the scene of the accident to be first on the job.

Mad Scramble

Once an accident has been reported there is a mad scramble by the solicitors to reach the victim first and obtain his signature to a contract. One injured person reported he had been solicited by no less than *twenty-five* separate groups. Various types of representations are made to induce the victim to sign. Offers are made to guarantee all medical, doctors and hospital bills and the chaser is careful to explain that in this respect their service is superior to that furnished by an attorney who will not contract for the payment of such expenses. Usually the victim is informed by the "chaser" that he has investigated the accident, ascertained the names of witnesses and because of his knowledge of the facts and long experience in adjusting similar cases can obtain a quicker and larger settlement than can be obtained by others or an attorney. Once the contract is signed, the "chaser" determines whether the other party involved is covered with insurance. If he is not the case is usually dropped unless the other person is financially responsible. Negotiations are then undertaken to effect a settlement with the insurance carrier, and if such negotiations are not successful the victim is taken or referred to an attorney who is willing to split fees with the "chaser" and a new contract is signed by the attorney and the victim. In some instances these "chasers" shop about among a group of attorneys and offer to sell their cases for the best "split".

In not a few instances it has been found that after settlements have been effected the chaser has pocketed all of the proceeds leaving the victim to his own resources in an effort to collect.

Combating the Evil

The committee having familiarized itself with the general methods employed by these "chasers" and attorneys it was determined that different remedies might and should be employed to effectively combat the evil.

The first effort of the committee was to eliminate the lay "chaser". To accomplish this as to the first chasing organization investigated, two contempt proceedings were instituted against Harvey C. Kaplow and Norman E. Redmond, otherwise known as the "Globe Adjustment Company". Kaplow was served with an order to show cause why he should not be held guilty of contempt of court. Redmond performed a quick "disappearing act" and has not been seen or heard of since. The "Globe Adjustment Company" surrendered its offices and retired from business. Kaplow was found guilty of contempt of court by Judge Marshall McComb, fined $1000, and sentenced to 10 days in jail, the judgment of commitment further providing that in default of payment of the fine Kaplow should be imprisoned at the rate of one day for each two dollars unpaid, the jail sentences to run consecutively.

In this case it was held that the act of the so-called "adjuster" in negotiating a settlement of a claim involving questions of law such as liability, measure of damages, insurance coverage and the like, constituted the practice of law and as the adjuster was not licensed to practice he was guilty of contempt under the provisions of Section 1209, C. C. P.

Conspiracy Charge

Investigation of another case disclosed a direct connection between the lay "chasing" group and a member of the bar. It appeared to the committee that those involved might be properly charged with conspiracy to violate the anti "runner and capper" act adopted by the California Legislature in 1931. With the approval of the committee the matter was presented to the District Attorney's office and Deputy District Attorney Van Cott confirmed the opinion of the committee and its counsel that a conspiracy charge was proper and could be sustained. Under well established law a conspiracy to commit a misdemeanor is a felony for all purposes until judgment is pronounced. The facts were presented to the grand jury which returned an indictment against two attorneys and eight laymen. Three have so far been apprehended. The remaining seven have fled and are now fugitives from justice. One of the attorneys was arrested in Tennessee and obtained his liberty on bail. When the agent of the District Attorney arrived with the extradition warrant, he was informed that the attorney in question had jumped his bail and departed for South America.

Further investigations are under way preparatory to the filing of additional contempt proceedings, and when the facts justify, the presentation of evidence to the grand jury with the hope that additional conspiracy indictments may be returned.

Investigations are also being closed as the result of which proceedings may be instituted against members of the Bar with a view of suspension or disbarment.

It is the firm conviction of the committee that it is possible to rid the community of the "chaser", and the Bar of those members who have trafficked with them and to this end its activities will be directed.

Ganging Up Against Gangsters

By Earle W. Evans, President of the American Bar Association

THE American Bar Association has been studying the problems of the administration of criminal justice for a number of years. Experts from law schools, from the ranks of the profession, and from the judiciary have—through the American Law Institute—produced a model code of criminal procedure of great value. Unfortunately, this has not as yet been adopted by any considerable number of the states. The National Conference of Commissioners on Uniform State Laws, which was organized by the American Bar Association and which meets with it, has recommended many legislative acts designed to hamper crime or aid in its punishment. These include one to bring back criminals who have fled to other states from the state in which the crime was committed, an act to restrict the unlimited sale of fire-arms, a machine-gun act, a narcotic drug act, and and act to secure the attendance of witnesses from without the state. These recommendations, prepared by experienced lawyers and administrators, have not yet been widely accepted. No one of them has been adopted by more than ten states. This is not because the legislators of the country are indifferent to the welfare of their constituents. It is rather due to the fact that they have not had the seriousness of the conditions regarding the enforcement of criminal law brought to their attention in a sufficiently forceful manner, nor have they been sufficiently informed of the painstaking, disinterested, and expert labor which has been spent in preparing these statutes.

Federal Action

The activities of John Dillinger, National Public Enemy Number One, have focused the attention of the people on the misdeeds of organized criminal gangs with a vividness that has created a wave of public sentiment for modern methods of dealing with modern criminals. The Attorney General of the United States has presented a very timely program to Congress designed to check the activities of the roving criminal, to deal with witnesses leaving the state in order to avoid being forced to testify, and to restrict the sale of firearms by providing for registration in certain cases. Most of this program has passed Congress without any great opposition. It is in step with the spirit of the times.

Many Legislatures will meet next year. Individual legislators who are able to sense the spirit of their communities must know that the public is demanding action from them which will curb the activities of criminals. I want to call to their attention the fact that not only the national association of lawyers, but also state and local associations have been giving much study to this particular problem. They are ready and willing to give the benefit of this experience to those who make the laws. An earnest and conscientious effort to solve these problems will assuredly meet with public support.

There can be no question of the responsibility of the lawyer in this matter. As a member of the profession which is in daily contact with the machinery of the law, and as an officer of the court, it is his duty to improve the administration of justice, and—at this time particularly—of criminal justice. The Chief Justice of the United States Supreme Court in a speech before the American Law Institute recently called attention to the duty of the lawyer to meet this responsibility.

In the Front Line

The American Bar Association is urging bar associations over the country, both state and local, to join with it in an attack on the crime problem. Under the direction of my assistant, Mr. Will Shafroth of Denver, Colorado, questionnaires on Criminal Law and Its Enforcement have been compiled and sent out to all bar associations in the country. Answers thus far received indicate the interests of the attorneys in this subject. They show that the matter of the personnel of crime-fighting agencies is regarded by the lawyers as of utmost importance, for they feel that many of our deficiencies lie in the failure of the individuals who are charged with the enforcement of the law. This applies to prosecutors and judges, but particularly to the police. The latter according to legal opinion are often subject to political control, improperly selected, inadequately trained, and often handicapped by insufficient security of tenure.

Comments on the Effect of Amendments to Federal Securities Act of 1933

By J. C. Macfarland, of the Los Angeles Bar

THE AMENDMENTS to the Securities Act of 1933, adopted at the recent session of Congress, effective July 1, 1934, are contained in Title II of the Act to provide for the regulation of Securities Exchanges, known as the "Securities Exchange Act of 1934." I will take up these amendments in the order in which they appear in the Act.

Paragraph (1) of Section 2 of the Securities Act of 1933, which is the paragraph defining the term "security," has been amended to omit a "certificate of interest in property, tangible or intangible"; and to include within such definition a certificate of deposit for a security, a fractional undivided interest in oil, gas or other mineral rights any interest commonly known as a security, and a guarantee of any of the securities embraced in the definition.

While it was generally conceded that a certificate of deposit for a security, such as a certificate of deposit issued by a bondholders' protective committee against the bonds deposited with the committee, was included within the term "security," the above amendment removes any doubt.

Definition of Security

The inclusion of any interest commonly known as a "security" and fractional undivided interests in oil, gas, or other mineral rights within the definition of the term "security," needs no comment. Emphasis should be placed, however, on the extension of the definition of the term "security" to include a guarantee of any security. In other words, not only is the security itself brought under the Act but also the guarantee of such security, so that in dealing with guarantees of any security, lawyers will have to be as mindful of the requirements and restrictions of the Act as in the case of the securities themselves.

Paragraph (4) of Section 2, which is the paragraph defining the term "issuer," is amended to exclude therefrom "every person who guarantees a security either as to principal or income." It would seem, however, that since a guarantee is now included in the definition of a security, the person signing such guarantee must necessarily be the issuer thereof and that the language above quoted was stricken from the Act as surplusage.

This paragraph is further amended by including therein a provision to the effect that in the case of an unincorporated association which provides by its articles for limited liability of any or all of its members, or, in the case of a trust, committee, or other legal entity, the trustees or members thereof, shall not be individually liable as issuers of any security issued by the association, trust, committee, or other legal entity.

Effect of Change

One of the effects of the Act as it existed prior to this amendment was to hinder the organization of protective committees representing the interests of the holders of defaulted bonds for the reason that the Act made such committee members liable as issuers and as issuers they were not entitled to the defenses which the Act provided for directors or officers of corporations. Hence, very few individuals were willing to risk such liabilities, especially in view of the fact that the services which they render as members of such committees are largely gratuitous. With the exclusion of such individuals from the definition of the word "issuer," their possible liability has been put in the same category as that of directors and officers and other signers of the registration statement who do not come within the definition of the term "issuer."

The same paragraph is also amended to provide that "with respect to fractional undivided interests in oil, gas, or other mineral rights, the term 'issuer' means the owner of any such right or of any interest in such right (whether whole or fractional), who creates fractional interests therein for the purpose of public offering." This amendment is consistent with the amendment which includes such fractional undivided interests within the definition of the term "security." In other words, if such undivided interests are to be deemed to be securities, then the issuer thereof is logically the person who owns the thing which is divided and who creates the fractional interest therein.

PROSPECTUS

Paragraph (10) of Section 2 is amended to provide that a communication shall not be deemed to be a prospectus if it is proved that prior to or at the same time with such communication, a written prospectus meeting the requirements of Section 10 of the Act was *sent or given to* the person to whom the communication was made.

Prior to this amendment, the Act provided that a communication should not be deemed to be a prospectus if it was proved that prior to such communication a written prospectus meeting the requirements of Section 10 had been *received by* the person to whom the communication was made. The change made by the amendment is obvious. Under the original Act, it would be extremely difficult, if not impossible, to prove that the prospectus had actually been received by the person to whom the communication was made prior to the communication. Now it will only have to be proved that either prior to or at the same time with the communication, a written prospectus was sent or given to the person to whom the communication was made.

EXEMPTED SECURITIES

The next amendment has to do with securities which are entirely exempt from the provisions of the Act, and by such amendment the language of paragraph (2) of Section 3 (a) of the Act is broadened to include the following:

"Any security issued or guaranteed" * * * "by any public instrumentality of one or more States or Territories, or by any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, or any certificate of deposit for any of the foregoing, or any security issued or guaranteed by any national bank," * * *

The old language, which the above quotation supplants, was:

"Any security issued or guaranteed" * * * "by any public instrumentality of one or more States or Territories exercising an essential governmental function, or by any corporation created and controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, or by any national bank," * * *.

The effect of the new language is not only to broaden the class of securities which are exempted but to eliminate the difficulty caused by the words "exercising an essential governmental function" which existed in the former Act, and to eliminate any question as to whether or not certificates of deposit which were based upon any of the securities thus exempted were also exempted.

For example, it was not certain under the old Act whether an irrigation district was a political subdivision of a state or territory exercising an essential governmental function and, hence, it was doubtful whether or not bonds of an irrigation district were exempted securities. Likewise, it was uncertain whether or not the certificates of deposit issued by a committee organized for the protection of the holders of such irrigation district bonds, were exempted from the Act. The elimination of the words "exercising an essential governmental function" and the inclusion of certificates of deposit for such exempted securities now removes the doubt as to irrigation districts and similar political subdivisions of a state.

EXEMPTION EXTENDED

Paragraph (4) of Section 3 (a) is likewise amended by striking out the word "corporation" and inserting in lieu thereof the word "person." Under the Act prior to amendment securities "issued by a *corporation* organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder, or individual", were exempt; such securities issued by others than corporations were, by inference, not exempt. The amendment extends the exemption to all such securities issued by a *"person"* and the term "person" is defined in the Act in broad enough language to include all individuals, partnerships, associations, corporations, and similar organizations which may be organized and operated for such purposes.

Section 3 (a) of the Act is also amended by adding thereto three classes of securities which are thus entirely exempted from the provisions of the Act:

First, there is added a new subdivision to Section 3 (a), numbered "(9)," which exempts any security exchanged by the issuer with its existing security holders exclusively, where no commission or other remuneration is paid or given, directly or

indirectly, for soliciting such exchange. Thus, where a corporation wishes to exchange with its existing bondholders a new issue of bonds bearing a different interest rate, payable at an extended date, and containing other features differentiating the new bonds from the existing bonds, such new bonds may be exchanged with the holders of the old bonds provided that no payments are made for the purpose of soliciting such exchange.

Before the amendment the transaction by which such an exchange was effected was exempted from registration. The amendment clarified the Act by providing specifically that the securities involved in such an exchange are exempted. As will be pointed out later on, the section having to do with exempted transactions has been amended to remove the exemption from the transaction since it is now applied to the securities themselves. Care must be taken in these cases to see to it that no money is spent for solicitation of security holders to make the exchange. The Federal Trade Commission has, in informal rulings, made a distinction between solicitation and explanation. In other words, the company making the exchange may employ someone to explain the facts of the exchange to its security holders, but if such employee, for compensation, solicits the exchange, exemption under this section of the Act would be lost.

Exchange of Securities

Second, there is added a new subdivision to Section 3 (a), numbered "(10)", which exempts "any security which is issued in exchange for one or more *bona fide* outstanding securities, claims or property interests, or partly in such exchange and partly for cash, where the terms and conditions of such issuance and exchange are approved, after a hearing upon the fairness of such terms and conditions at which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear, by any court, or by any official or agency of the United States, or by any State or Territorial banking or insurance commission or other governmental authority expressly authorized by law to grant such approval".

Benefit of Amendment

If the Commissioner of Corporations of California is a "governmental authority expressly authorized by law to grant such approval", this amendment will prove of great value to corporations desiring to secure from their bondholders a readjustment of the outstanding bonds, involving a reduction in the rate of interest or a reduction in annual maturity payments or sinking fund payments, extension of principal payments, amendment of release prices, and other similar adjustments. The Federal Trade Commission has, in many instances, informally ruled that such a readjustment constituted an exchange between the company issuing the securities to be readjusted and the holders of such securities, and many such readjustments have been consummated without registration under the Act on the theory that such exchanges were exempt as exempted transactions under Section 4 (3) of the Act as it existed prior to the amendment, which section is alluded to in the foregoing paragraph.

However, in many such contemplated readjustments, facts sufficient to bring the same squarely within the above mentioned exemption are lacking and, hence, counsel have hesitated to advise clients that the transaction is exempt even though, in many cases, the Federal Trade Commission has informally ruled that such exemption probably applies. On account of the possible liabilities to be incurred in the filing of a registration statement, the officers and directors of corporations seeking such readjustments have in most cases been extremely reluctant to file registration statements. Therefore, in many instances, bonds which obviously should be readjusted have not been readjusted, with the result that funds are frozen in the hands of trustees who are powerless to disburse them to bondholders, and many corporations which are ready and willing to pay interest at a reduced rate, or to apply all of their net earnings in payment of interest, are prevented from making such payments.

Certainly, if the Commissioner of Corporations must approve the terms and conditions of any such readjustment, those that are fraudulent or unfair to the security holders can not be consummated and, hence, the security holders would have all necessary protection. Furthermore, the majority of such readjustments concern bonds and other securities that are locally issued and sold and are really not matters of national interest.

Readjustments of Bonds

The exemption covered by this new subdivision (10) will permit the terms and conditions of any such readjustment to be submitted to the governmental authority

mentioned in the amendment and if such authority approves the terms and conditions of any such readjustment after a hearing upon the fairness of such terms and conditions, at which the persons holding the bonds to be readjusted shall have the right to appear, then the securities resulting from such readjustment will be entirely exempt from registration under the Federal Securities Act, and thus such readjustment can be accomplished without any doubt as to whether or not the same are exempt, and the officers and directors of the company issuing the readjusted securities will not be faced with the possible liabilities imposed by the Federal Securities Act, the holders of the securities will be given ample protection, and the funds now frozen will be available.

The only unfortunate aspect of the amendment is that it does not specifically include commissioners of corporations in its language, and whether such commissioners come within the meaning of the words "other governmental authority expressly authorized by law to grant such approval" has not (at the moment of writing this article) been determined. It is hoped that a favorable ruling can be obtained from the Federal Trade Commission covering this point, though it would seem that our Corporate Securities Act undoubtedly gives the Commissioner such authority.

Protective Committee

The wording of this amendment would appear to be broad enough to include the issuance by a bondholders' protective committee of its certificates of deposit when outstanding securities are deposited with the depositary of the Committee, but under the present Corporate Securities Act of this State, the Commissioner has no authority to approve the issuance of certificates of deposit, since they are expressly exempted from the Corporate Securities Act by subdivision (7) of Section 2 (a), and it will probably be necessary to amend the Corporate Securities Act so as to give the Commissioner authority to approve the issuance of certificates of deposit in order to make such certificates exempt from the operation of the Federal Securities Act if the terms and conditions thereof are approved by the Commissioner of Corporations after a hearing.

Local Security Sales

Third, there is added a new subdivision to Section 3 (a), numbered "(11)", which exempts "any security which is a part of an issue sold only to persons resident within a single State or Territory, where the issuer of such security is a person resident and doing business within, or, if a corporation, incorporated by and doing business within, such State or Territory". This language is self explanatory. The Act before amendment contained a similar provision as subdivision (c) of Section 5 which provided that the provisions of Section 5 with reference to the use of the mails should not apply to the sale of any security sold only to persons resident within a single State or Territory. This provision has now been eliminated from Section 5 and inserted in Section 3, making it certain that such securities are entirely exempted from the provisions of the Act, instead of being only freed from the provisions of the Act with reference to the use of the mails.

Paragraph (1) of Section 4 of the Act is amended so as to provide that transactions by an issuer and not involving any public offering are exempted from Section 5 of the Act. Section 5 is the section which makes it unlawful to sell or offer to buy a security by use of any means or instruments of transportation or communication in interstate commerce or of the mails unless a registration statement is in effect as to such a security.

Under the Act as it existed before amendment, a transaction by an issuer not involving a public offering was not exempted from Section 5 if it was carried out with or through an underwriter. The amendment eliminates the provisions relating to the underwriter so that now a transaction by an issuer and not involving any public offering is exempted from the provisions of Section 5 regardless of an underwriting. Doubt still remains, however, as to what constitutes a public offering.

Error Corrected.

The above mentioned subdivision (1) of Section 4 has also been amended to correct an obvious error. As the provision which has been amended formerly stood, it provided that there was also exempted from the provisions of Section 5 a transaction by a dealer except a transaction within one year after the *last* date upon which the security was *bona fide* offered to the public by the issuer or by or through an underwriter. The word "last", italicized above, by the amendment has been changed to "first", so that now the exemption is

denied to transactions by a dealer within one year after the first date upon which the security was *bona fide* offered to the public, etc., it being obvious that if the year ran from the *last* date, it would be extremely difficult, if not impossible, to fix the date upon which the period began to run.

Subdivision (3) of Section 4 has been repealed. This section set forth certain transactions which were exempted, but the entire effect of this exemption is now included within the new subdivisions (9) and (10) of Section 3.

Subsection (c) of Section 5 of the Act has been entirely repealed, but the Act has not been deprived of the effect of such repealed section for the reason that the substance of such section is now found in subdivision (11) of Section 3.

Registration Statements

Paragraph (1) of Section 10 (b) of the Act has been rewritten. This is the section dealing with the information required in a prospectus and subdivision (1) of subsection (1), as formerly written, required that "when a prospectus is used more than thirteen months after the effective date of the registration statement, the information in the statements contained therein shall be as of a date not more than twelve months prior to such use". This language has been changed to read as follows:

> "When a prospectus is used more than thirteen months after the effective date of the registration statement, the information in the statements contained therein shall be as of a date not more than twelve months prior to such use, so far as such information is known to the user of such prospectus or can be furnished by such user without unreasonable effort or expense."

Civil Liability

The effect of this change in language is self evident.

Section 11 of the Act has to do with civil liabilities on account of a false registration statement, and subdivision (a) of Section 11 provides that in case any part of the registration statement contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, any person acquiring such security (unless it is proved that at the time of such acquisition he knew of such untruth or omission) may sue certain designated persons.

There is now added to this portion of the Act a new sentence as follows:

> "If such person acquired the security after the issuer has made generally available to its security holders an earning statement covering a period of at least twelve months beginning after the effective date of the registration statement, then the right of recovery under this subsection shall be conditioned on proof that such person acquired the security relying upon such untrue statement in the registration statement or relying upon the registration statement and not knowing of such omission, but such reliance may be established without proof of the reading of the registration statement by such person."

The effect of this amendment is that if a corporation makes such earning statements available to its security holders, then the plaintiff must prove that in purchasing the security he relied upon the mistake or omission in the registration statement or prospectus.

Prior to this amendment a strict construction of the language of the Act led to the conclusion that the plaintiff might be successful without regard to whether or not he had ever seen the registration statement or prospectus. Unless the issuer has made the earning statement above mentioned available, the plaintiff evidently need not prove any such reliance. The amendment, however, contains a rather curious provision that reliance upon the registration statement may be established without proof of the reading thereof. The meaning of this provision is doubtful.

Burden of Proof

Subdivision (b) of Section 11 of the Act has to do with the burden of proof which persons other than the issuer, sued in accordance with subdivision (a) of Section 11, must sustain. The Act provided before amendment, in effect, that any such person should not be liable who sustained the burden of proof that, as regards any part of the registration statement purporting to be made on the authority of an expert other than himself, or purporting to be a copy of or extract from a report or valuation of an expert other than himself, he had reasonable ground to believe, and did believe, at the time such part of the registration statement became effective, that the statements therein were true and contained no omissions and that such part of the registration statement fairly repre-

sented the statement of the expert or was a fair copy of or extract from the report or valuation of the expert. This has now been amended to provide that the person so sued is not liable if he sustains the burden of proof that, as regards any such part of the registration statement, he had no reasonable ground to believe, and did not believe, at the time such part of the registration statement became effective, that the statements therein were untrue or that there was an omission, thus making the burden of proof somewhat easier to sustain.

The same section has been amended so as to have the same effect on the burden of proof which has to be sustained by a person who is sued as regards any part of the registration statement purporting to be a statement made by an official person or purporting to be a copy of or extract from a public official document.

It should be noted, however, that the provisions of the Act with reference to the burden of proof that must be sustained by the defendant regarding any part of the registration statement not purporting to be made on the authority of an expert, or to be a copy of a report of an expert, or to be a statement of an official person, or a copy of a public official document, have not been amended.

Standard of Reasonableness

The Act, as originally written, provided in subdivision (c) of Section 11 that in determining, for the purpose of sustaining the burden of proof above referred to, what constitutes reasonable investigation and reasonable ground of belief, the standard of reasonableness shall be that required of a person occupying a fiduciary relationship. This provision has now been amended so as to provide that the standard of reasonableness shall be that required of a prudent man in the management of his own property.

Liabilities for Which Suit May Be Brought

The amendments to subdivision (e) of Section 11 are very important. This is the subdivision which establishes the liabilities for which suit may be brought. Before the amendment this section provided that the suit authorized might be either to recover the consideration paid for the security, with interest thereon, less the amount of any income received thereon, upon the tender of such security, that is to say, upon a rescission action, or for damages if the person suing no longer owned the security, whether or not the false statement or omission in the registration statement was the cause of the loss.

As the Act has been amended, the suit authorized under this section may be to recover such damages as shall represent the difference between the amount paid for the security (not exceeding the price at which the security was offered to the public) and the value of the security as of the time such suit was brought, or the price at which such security shall have been disposed of in the market before suit, or the price at which such security shall have been disposed of after suit but before judgment, if such damages shall be less than the damages representing the difference between the amount paid for the security (not exceeding the price at which it was offered to the public) and the value thereof as of the time such suit was brought. Thus the maximum amount of damages that could be recovered in any such suit has been considerably cut down, but the amendment goes still further and provides that if the defendant proves that any portion or all of such damages represents other than the depreciation in value of the security resulting from such part of the registration statement with respect to which his liability is asserted not being true or omitting to state a material fact, such portion of or all such damages shall not be recoverable. In other words, if the defendant can prove that part or all of the plaintiff's damages have resulted from causes other than the falsity of the registration statement, that portion of the damages must be deducted.

The amendment further provides that an underwriter who formerly, under the old Act, might have been sued for the entire amount of the issue of securities, is not now liable for damages in excess of the total price at which the securities actually underwritten by him and distributed were offered to the public, unless such underwriter shall have knowingly received from the issuer some benefit, directly or indirectly, in which other underwriters similarly situated did not share in proportion to their respective interests in the underwriting.

This amendment also provides that in any such suit the court may, in its discretion, require an undertaking for the payment of the costs of the suit, including reasonable attorneys' fees, and if judgment shall be rendered against a party litigant, such costs may be assessed upon motion of the other party in favor of such other

party, if the court believes the suit or the defense to have been without merit, in an amount sufficient to reimburse him for reasonable expenses incurred by him in connection with such suit. One of the fears engendered under the old Act was that many of the so-called "nuisance" suits might be filed. The above requirement for a bond and the danger of having the costs assessed should confine all such suits to those brought in good faith.

LIMITATION FOR FILING ACTION

Under the Act before amendment, actions to enforce the liability created under Section 11 or Section 12, subdivision (2), had to be brought within two years after the discovery of the untrue statement or the omission or after such discovery should have been made by the exercise of reasonable diligence. Actions to enforce the liability created under Section 12, subdivision (1), had to be brought within two years after the violation upon which the action was based. By the amendments to Section 13, the two year period in each case has been reduced to one year. Section 13 further provided that in no event should any action be brought to enforce a liability created under Section 11 or Section 12 (1) more than ten years after the security was *bona fide* offered to the public. This period has now been reduced to three years, and the amendment also provides that an action to be brought under Section 12 (2) can not in any event be brought more than three years after the sale of the security.

Section 15, having to do with the liability of persons controlling any person who is liable under Sections 11 and 12, has been amended so as to provide that such controlling person is not liable if he had no knowledge of, or reasonable ground to believe in, the existence of the facts by reason of which the liability of the controlled person is alleged to exist.

Section 19, with reference to the special powers of the Commission, has been amended to give the Commission authority to make rules defining the technical terms used in the Act, as well as accounting and trade terms.

This Section has also been amended to provide that no provision of the Act imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the Commission, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid.

The sections not referred to in this article have not been amended.

Election of Judges

By Charles Francis Adams, of the Los Angeles Bar

IT WAS MY intention to bring an action, first in the Supreme Court of the State of California, and then in the United States Courts, for the purpose of testing the validity of the law which provides for candidates for the judiciary being grouped according to offices.

After a very careful study and analysis of the decisions, I found that similar statutes were upheld in the States of Washington, Oklahoma, and Minnesota, while a similar statute was declared unconstitutional in Ohio; and that there was no judicial authority for an appeal to the United States Courts, as this law does not violate the 14th Amendment of the Constitution. There has been no case in the United States Courts declaring unconstitutional a State law regulating the right to vote.

This right is in fact not a right, but a privilege granted by and regulated by the State. It must, however, be uniform and apply to all citizens in the same class or category. The old law, by which all of the candidates' names were listed in a column was detrimental to public interests in that it imposed too great a burden on the voter to discover the right candidate to vote for.

New System Needed

Upon the other hand, the present system is detrimental to public interest in that it deprives the voter of his choice of candidates, namely; there may be two very good and capable men running for the same office, while there may be two very weak and incapable men running for another office; but even worse than this feature is the fact that the present system puts the judges upon the spot, because they are subject to the constant menace that unless they please organized minorities and special interests, those interests will finance a candidate to defeat such a judge. The system also affords an opportunity for pretending candidates to gain some advantage by reason of filing and withdrawing.

Some new and different system is needed.

In my opinion the evils of the separate office system are greater than the evils of the column system. The evils of the column system, of placing candidates upon the ballot in a column, would be overcome by giving the public information concerning the qualifications of the various candidates for office. I believe that the public can be depended upon to vote intelligently if we give them the facts. I have submitted to the Legislative Committee of the City Council a proposed charter amendment, providing for the publication of a pamphlet to be mailed to the voters with the sample ballot, giving them information concerning the experience, education, residence, etc., of candidates for public office.

I believe also that an opportunity ought to be given to all of the members of the Bar of the County to thoroughly acquaint themselves with the qualifications of candidates for the judiciary, and that a plebiscite of all of the attorneys in a County ought to be taken, and that upon the ballot should be printed, after the names of the candidates who received such endorsement, the words, "Endorsed by the Los Angeles County Bar Association". Or that such statement should be contained in the printed pamphlet sent out to the voters. I believe there ought to be a County Bar Association, consisting of representatives in proportion to membership of every Bar Association, lawyers' club, or lawyers' association in the County.

PATENT LAW ASSOCIATION ELECTS OFFICERS

At a meeting of the Los Angeles Patent Law Association held on June 29, 1934, the following officers and members of the Board of Governors were elected: Ford W. Harris, president; James T. Barkelew, vice-president; Hamer H. Jamieson, secretary.

For the Board of Governors: James M. Abbett, and Philip Subkow.

MOVEMENT TO REPEAL STATE BAR ACT

(Continued from page 246)

having received an academic degree from any college or university of any State of the United States authorized, or which may hereafter be authorized to confer such a degree, and also a professional law degree from any college or university of the State of California authorized to confer, or which may hereafter be authorized to confer such degree, and if he also possesses the other qualifications mentioned in this section, be recommended to the Supreme Court of the State of California for admission to the practice of law upon the payment of the usual application fee, without the additional requirement that he submit to a written or oral examination to determine his qualifications, at such time as the next regular class of candidates is admitted. Good character will be presumed from the conferring of the degree in the absence of proof to the contrary. Provided further that any applicant who shall show satisfactory proof that he has passed the required examination, or met the conditions set for admission in any other state of the United States which has agreed to reciprocity in admission with the State of California, or which may hereafter agree to such reciprocity, and has practiced law in such other state for a term of five years or more, shall be eligible for admission to the practice of law after a year of residence in California, if he shows a *bona fide* intent to make California his permanent residence, and shall upon payment of the usual examination fee be recommended by the Committee of Examiners to the Supreme Court of the State of California for admission to the practice of law, without the further requirement of a written or oral examination to qualify for admission, provided he possesses the requisite moral character. All such applicants reommended to the Supreme Court by the Committee for admission to the practice of law shall be admitted to practice by said court within one month from the date of such recommendation, which shall be made not later than two weeks after the determination of the applicant's qualifications.

Section 6. Any applicant who received a grade of over 50% and was not admitted to the practice of law as the result of any bar examination held by the State Bar of California, or any of its committees, since January, 1932, who shall have participated in two or more such examinations before the enactment of this law shall be eligible for admission and be recommended by the Judicial Council for admission to the practice of law forthwith, and the Committee of Bar Examiners functioning under the old law hereby repealed shall certify to the Supreme Court and to the Judicial Council of the State of California, a complete list of the names of all such eligibles, and the Judicial Council shall recommend their admission in accordance with the provisions of this Act, and do all other things necessary therefor, in such time that those applicants may be included in the group of candidates admitted to the practice of law as the result of successful completion of the August, 1934, bar examination, or as soon thereafter as possible. But such list must be submitted as provided herein before the 15th day of November, 1934, so that such applicants may qualify for appointment on the special committee provided for in the next section.

Section 7. Provided further that any applicant who received a grade of lower than 50%, and did not receive a grade higher than 50% in any bar examination held by the State Bar of California, or any of its committees, since January, 1932, shall at his request to a special committee appointed as provided for herein, be given a substantiating examination on the 17th day of December, 1934, which shall consist of 100 objective type questions, known as a mental test which need not all be, but shall consist principally of questions in law. This examination shall be conducted by a special committee of six members selected by the Judicial Council from the applicants recommended for admission under the provisions of Section 6 of this Act, who possess the qualifications required for membership on the Committee of Examiners as by this Act provided. Any applicant who receives a grade of 70% in said substantiating examination shall forthwith be recommended for admission to the practice of law by said special committee to the Judicial Council who in turn shall recommend their admission to the Supreme Court of the State of California, and they shall be eligible for admission with the group to be admitted as a result of the next regular examination held after the enactment of this Act. Applicants for this substantiating examination shall be required to pay a

reasonable application fee, and the application need state only that the applicant applies for examination as provided for under this section and is eligible therefor. The Committee of Bar Examiners, functioning under the act hereby repealed, shall furnish this special committee a complete list of all those persons who are eligible for the examination mentioned in this section before the date set for said examination. Any eligible who does not take, or who shall fail this substantiating examination, and any applicant failing a regular examination held by the Committee of Examiners, which regular examinations shall be held in February and August of each calendar year at convenient examination points to be designated by said Committee, may take any subsequent regular examination, provided he can give satisfactory proof of having completed two additional courses of at least thirty hours each in a law subject in any of the law schools now functioning, or which may hereafter be authorized to function by the State of California.

Section 8. In conducting regular examinations the Committee of Examiners will prepare examination booklets containing questions and space for answers. On the cover page of the booklet will be a perforated corner about three inches square. The applicant will be required to sign his name in the square. When all of his booklets are in, a number will be assigned to the perforated squares with his name, which will be torn off, and the same number assigned to his booklet. The numbers so assigned will be assigned to candidates' papers in the presence of a member of the Judicial Council without regard to alphabetical or any other arrangement. The perforated square containing the applicant's name and number will be sealed in an envelope and filed with the judicial council, and the examination booklet will contain only the number assigned it, during the scoring thereof. Thereafter, and until all the papers are rated no member of the Committee of Examiners or readers who may be employed by them shall have access to those names and numbers, nor shall anyone during this time take examination papers from an examination room which shall be provided for the use of those reading the examination papers for any reason whatever. After all the papers are scored the total score will be placed after the number assigned on a list of such numbers theretofore prepared, and sent to the Judicial Council where they will be matched up with the examination number on the applicant's name.

Section 9. There shall be a Disciplinary Committee which shall be appointed in the same manner as is the Committee of Examiners, and whose members shall have the same qualifications, together with the added requirement that they shall have engaged in the practice of law in the State of California for a period of five years or more. It shall be the duty of the committee to handle all disciplinary matters, make such investigations and hold such hearings as may be necessary in order to present their recommendations to the Judicial Council, who shall after a consideration thereof make any recommendations thereon they may see fit to make as to whether proceedings in disbarment shall be instituted in the Superior Court, and shall have the power to direct the Disciplinary Committee to bring such disbarment proceedings, and the latter shall have the power to do so.

Section 10. The Board of Directors, the Committee of Examiners, and the Disciplinary Committee shall have power to make all rules and regulations which shall be necessary and proper for the carrying into execution of the powers granted to them by this Act. Provided, however, that any rule adopted by the Committee of Examiners and the Disciplinary Committee shall, before it becomes effective, have the approval of the Judicial Council.

Section 11. The State Bar of California and its various committees shall have a reasonable time in which to wind up the affairs of the State Bar, perform the additional duties imposed on them by this act, and make an accounting to the proper officials of the State of California and of the new association.

Section 12. The act entitled "An act to create a public corporation to be known as 'The State Bar of California,' to provide for its organization, government, membership and power, to regulate the practice of law, and to provide penalties for violations of said act," approved March 31, 1927, including each and every section of said act, that is Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49 and 50

thereof, and all the acts amending said act, including the act approved June 6, 1929, entitled an act to amend an act entitled "An Act to create a public corporation to be known as 'The State Bar of California,' to provide for its organization, government, membership and power, to regulate the practice of law, and to provide penalties for violations of said act," approved March 31, 1927, by amending sections 9, 15, 26, 29, 30, 32 and 34 thereof, and the whole of said amending act, including Sections 1, 2, 3, 4, 5, 6 and 7; and the act amending said act approved June 19, 1929, entitled an act to amend section 24 of the "State Bar Act," approved March 31, 1927, relating to the admission and licensing of members of "The State Bar of California," and the whole thereof, including Section 1; and the act amending said act approved May 20, 1931, entitled an act to amend section 1 of Chapter 34, Statutes of 1927, entitled "The State Bar Act," approved March 31, 1927, as amended, relating to the board of governors, and the whole thereof, including Section 1; and the act amending said act approved June 12, 1931, entitled an act to amend section 24 of the State Bar Act, approved March 31, 1927, as amended relating to admission to practice, and to repeal sections 275, 276, 276a, 277, 279, 280 of the Code of Civil Procedure, and the whole thereof, including Sections 1 and 2; and the act amending said act approved June 15, 1931, entitled an act to amend section 38 of the State Bar act, relating to the admission of applicants, and the whole thereof, including section 1; and the act amending said act approved May 16, 1933, entitled an act to amend sections 9, 14 and 15 of "The State Bar Act," relating to the Board of Governors, and the whole thereof, including Sections 1, 2 and 3, are all hereby expressly repealed, and also any other amendments of said State Bar Act, and no prior statutes or code sections heretofore repealed shall be reestablished by the adoption of this Act. It is the express intention of this section to dissolve the public corporation organized and existing under the act of March 31, 1927, and known as The State Bar of California, and subsequent amendments made to the act incorporating said corporation, all of which were enacted in contemplation of the power reserved to the people in Article IV, Section 1, of the Constitution of the State of California, and whose existence was therefore limited thereby, and should any section of this act be declared unconstitutional it is the will of the people that such unconstitutionality shall not affect the validity of Section 12 of this act. It is further provided that if any section, subsection, sentence, clause or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of the act. The people of the State of California hereby declare that they would have passed this Act, and each section, subsection, sentence or clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Women's Junior Committee Elects Officers

The executive council of the Women's Junior Committee for the coming year, recently appointed by Dr. Wendy Stewart, chairman, consist of the following: Betty Marshall Graydon and Pauline Hoffmann, First Vice-Chairmen; Adele O. Carver, Second Vice-Chairman; Rena Brewster, Secretary, and the following members, Bernice Morris, Harriett E. Rowan, Ernestine Stahlhut, and Anna von Seggern. The July and August meetings of the committee will be held out-of-doors, the July meeting at Hermosa Beach on Sunday, July 9th. Plans are being perfected for interesting and instructive meetings in the fall with speakers on topics of interest to the younger members of the Bar.

Deficiencies In Our Law Reporting System

By Frank L. Holt, Secretary of Municipal Court

THE UNDERLYING trouble with law reporting service in California is that attorneys, in order to keep abreast of the reported law, are virtually obliged to buy two sets of reports, to-wit, the "Decisions" (commonly called the "Advance Sheets"), published by the Recorder Printing and Publishing Company, and the official "Reports", published by the Bancroft-Whitney Company; both edited by Randolph V. Whiting. The alternative is to buy the Pacific Reporter, published by the West Publishing Company.

The reason for the trouble is that each of the California publications is fatally defective in supplying a complete reporter service, in that the Advance Sheets do not furnish many of the cases in their final form, and do not furnish a convenient and usable list of cases which are reheard or modified; and the official Reports are, or have been for the last several years, many months too late in publication. If both publications would correct their defects, each in itself, would constitute a complete and satisfactory system of California reported law, so that attorneys would need to buy only one of them.

So long as the publications of the official reports is eight or ten months behind rendition, as at present, attorneys cannot rely on them alone, but must supplement them with some earlier reports.

Experience has proved that the use of a numerical list of the reheard, modified, and corrected cases (such as has been published by the News, beginning with 68 C. A. D. and 82 C. D.), coupled with marking such cases in the Advance Sheets at each case, showing the location of the rehearing, modification, or correction, constitutes the Advance Sheets a satisfactory and up-to-date system of all the reported law of California. The disadvantage of the list of rehearings now furnished by the publisher in the Appellate Advance Sheets is that the list for each column is divided into about TEN different alphabetical groups, according to the district or division in which the decision was rendered and the court in which the rehearing was granted, and this list does NOT include the modifications, corrections, or affirmations of cases in which rehearings are denied. The resulting confusion and uncertainty is so great that attorneys scarcely use the publisher's rehearing tables at all.

Changes Suggested

In addition to furnishing a complete numerical list of all the cases in which the original printed judgment is changed, the publishers should print the modifications, corrections, and affirmations of cases (in which a rehearing is denied) on separate leaflets for attorneys to paste in the Advance Sheets at the respective cases. This would furnish attorneys with all the reported cases in their final form within the quickest possible time.

In using the Advance Sheets without the assistance of any other reports, it would be advantageous to have the cited cases show the "Decisions" number and page as well as the "California Reports" and "Pacific Reporter" number and page. Also, it would be much easier for attorneys to keep abreast of the rehearing and dismissals granted, if the publishers would cite the "Decisions" page and number of such cases in the weekly and semi-weekly minutes of the different courts.

It should be mentioned in passing that the Advance Sheets, when bound, occupy somewhat less than two-thirds the shelf space of the corresponding Reports.

The Pacific Reporter supplies its subscribers with transposition index sheets showing Pacific Reporter to California Advance Sheets, and Pacific Reporter to the official California Reports. Why do not our California publishers supply their subscribers with corresponding lists?

Pagination

Uniform pagination of the Advance Sheets and the bound volumes could be obtained by printing both from the same type. If it is deemed advisable to omit the reversed original decisions by printing only selective decisions in the bound volumes, then omit the page numbers also of the omitted decisions. If it is considered essential to show the net number of pages in the bound volumes, let such numbers be printed at the bottom of the pages, with the advance sheet page numbers at the top.